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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/730,325

12/08/2003

Jerome Skuba

Skuba-P1-03

2418

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7590

08/25/2006

PETER K. TRZYNA, ESQ.

P O BOX 7131

CHICAGO, IL 60680

EXAMINER

PALO, FRANCIS T

ART UNIT

PAPER NUMBER

3644

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/730,325	Applicant(s) SKUBA, JEROME	
	Examiner Francis T. Palo	Art Unit 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2006.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

**Claims 1-20** are rejected under 35 U.S.C. 102(a),

as anticipated by or, in the alternative, under 35 U.S.C. 103(a),

as obvious over Kawamoto (JP 10313690A) 1998;

Priority Date (JP0127110) 5/1997.

Regarding **claim-1**:

Kawamoto '690 teaches a **garden creating method** of successively arranged multiple standardized garden items ('690 claim-1) which, is read as forming a design and implementing the design, as claimed.

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Kawamoto further depicts in the figures forming pieces (figures 4,5, 11-18 and 22) corresponding to a portion of the design (figures 3,6,7), as claimed; specifically, a grass piece (figure-5), plants (figure-22) and stone (figure-4) among others are depicted, as claimed.

Kawamoto also teaches [0045] **garden items** (21-24 and 30) are **formed, packaged and shipped** and [0006] that the size and shape of the garden items are not limited to parallelepiped shape, and any in the size and shape that **workers can carry around** can be used.

Regarding **independent claim-2**:

The discussion above regarding claim-1 is relied upon as encompassing the instant claim.

Kawamoto further teaches forming pieces containing mats of grass (figures 17,18) and moss (figures 12-16) read as; growing mats of respectively different kinds of plants.

Regarding **claim-3**:

The discussion above regarding claim-2 is relied upon.

Kawamoto teaches grasses as discussed above, and as claimed.

Regarding **claims 4 and 5**:

The discussion above regarding claim-3 is relied upon.

Second and third members as claimed, are readily apparent from the figures of Kawamoto; specifically in figures 3,6,7.

Regarding **claims 6-15, 18 and 19**:

The discussions above regarding claims 1 and 3 are relied upon.

Kawamoto teaches lawn [0007], moss [0008] and that the garden items should not be limited to only those items that are listed [0007]; as there are many species of grasses (both ornamental and lawn species) and likewise moss, Kawamoto thus encompasses the eight mat members as claimed in the instant claims.

Regarding repeating **claims 16 and 17**:

The discussions above regarding claims 1 and 2 are relied upon.

Kawamoto teaches a garden creating method that allows for easily creating a garden on a rooftop, balcony and inside a lot [0001], Kawamoto does not appear to specifically teach forming a logo.

It would have been obvious to one of ordinary skill in the art at the time the invention was made, to have formed a design in the form of a corporate logo as claimed,

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as Kawamoto teaches a method that can easily create a garden with an overall uniformity and a beautiful view on a rooftop, balcony of a building or inside a lot, and further such modification is merely an alternate equivalent garden design performing the same intended function of creating a uniform and beautiful view as taught by Kawamoto.

Regarding **claim-20**:

The discussions above regarding claims 1 and 2 are relied upon as encompassing the limitations of the instant claim.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Francis T. Palo whose telephone number is 571-272-6907. The examiner can normally be reached on M-Tu., Th.-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Francis T. Palo*

Francis T. Palo  
Primary Examiner  
Art Unit 3644